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## OPTION REPORTS

### COMPULSORY VOTING

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The following report is one of a series produced by the Constitutional Design Group, a group of scholars dedicated to distributing data and analysis useful to those engaged in constitutional design. The primary intent of the reports is to provide current and historical information about design options in written constitutions as well as representative and illustrative text for important constitutional provisions. Most of the information in these reports comes from data from the Comparative Constitutions Project (CCP), a project sponsored by the National Science Foundation. Interested readers are encouraged to visit [constitutionmaking.org](http://constitutionmaking.org) for further resources for scholars and practitioners of constitutional design.

Note that the dates provided herein for constitutional texts reflect either the year of initial promulgation *or* of a subsequent amendment, depending on which version was used for analysis. EXAMPLE: Brazil 2005 refers to the Brazilian Constitution of 1988, as amended through 2005.

## **1. INTRODUCTION**

Providing for compulsory voting in constitutions is reasonably common in Latin America and Western Europe, but rare or absent in other regions of the world. We describe below the range of constitutional provisions on compulsory voting.

## **2. DATA SOURCE(S)**

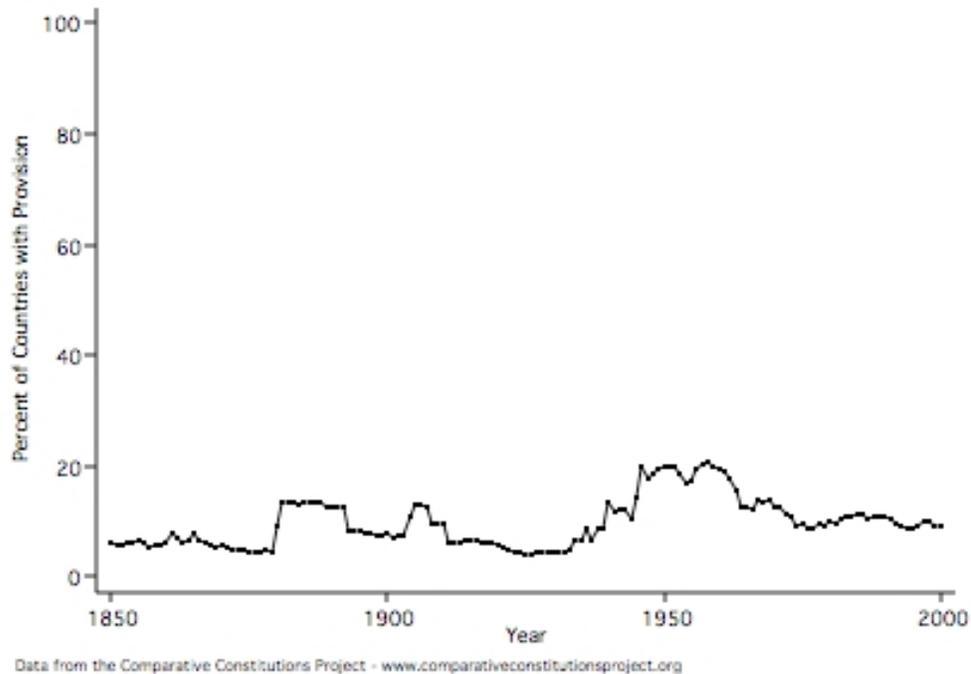
The analysis reported below is based on data from the Comparative Constitutions Project (see the appendix for more information on this resource). As of this writing, the project's sample includes 550 of the roughly 800 constitutions put in force since 1789, including more than 90% of constitutions written since World War II.

## **3. CLASSIFICATION AND HISTORICAL TRENDS**

Of constitutions written since 1789, approximately 11% have included some provision for compulsory voting.

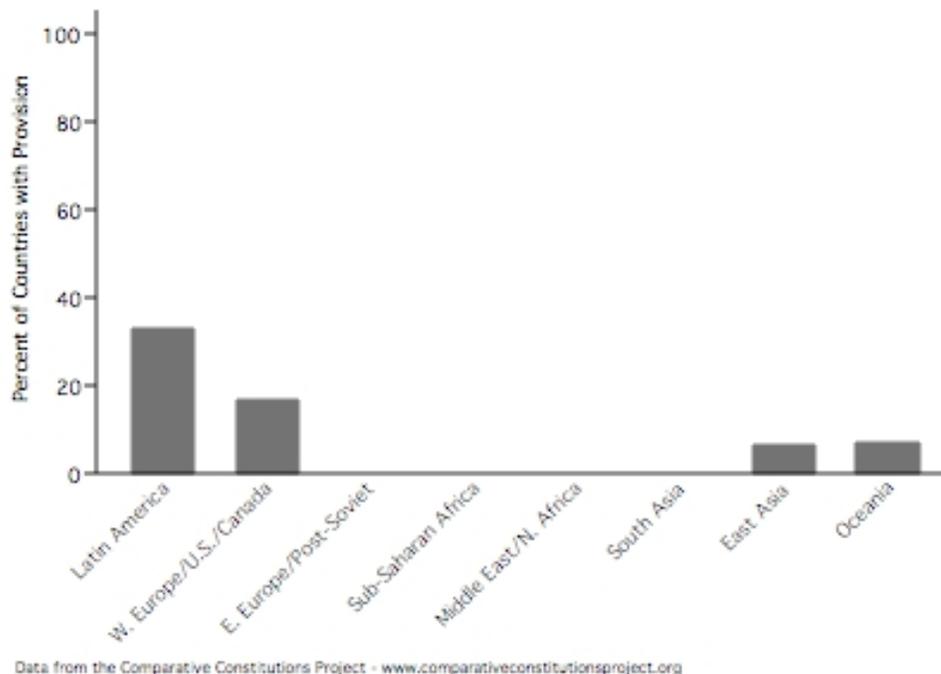
Figure 1 shows the percent of constitutions in force with some provision for compulsory voting, by year. The data suggest a small shift towards the practice in the post-WWII era, when a little over 20% of constitutions in force included such a provision. By 2000, however, that number had receded to the historical average.

**Figure 1. Percent of Constitutions that Provide for Compulsory Voting, by Year (N=550)**



As Figure 2 indicates, compulsory voting is very much a regional phenomenon. In 2000, about one-third of Latin American constitutions have included such a provision and about one-fifth of Western European constitutions. Outside of those two regions, the provision is rare or non-existent.

**Figure 2. Percent of Constitutions that Provide for Compulsory Voting in 2000 by Region (N=191)**



#### 4. NOTES ON ATYPICAL CASES

Compulsory voting is sometimes conditional. Some constitutions specify that voting is mandatory for certain categories of citizens, but optional for others. For example, in Ecuador's constitution as of 1946, voting is mandatory for women and optional for men. Other constitutions stipulate that voting is mandatory up to a certain age, after which it becomes optional (e.g. Brazil 2005, Ecuador 1998, and Peru 1979 and 2005). All of these cases have been coded as "compulsory" in the data presented above.

Many constitutions stipulate that voting is a duty of citizens, without going so far as to call it obligatory (e.g. Afghanistan 1923, Colombia 2005, Costa Rica, Haiti 1987, Italy 2003, and Portugal 2004). Such cases were coded as "not compulsory" in the data.

#### 5. SAMPLE CONSTITUTIONAL PROVISIONS

*(Note: dates provided reflect the version of the constitution used to obtain sample provisions, and represent either initial year of promulgation or year through which subsequent amendments are included.)*

The set of sample provisions is divided into sections on:

1. Voting is mandatory
2. Voting is optional for certain categories of citizens and/or after a certain age

### 5.1. Voting is mandatory

This Constitution guarantees full enjoyment of political rights, in accordance with the principle of popular sovereignty and with the laws dictated pursuant thereto. Suffrage is universal, equal, secret and mandatory.

- *Argentina 1994, Article 37*

The constitution of the electoral colleges is regulated by law. Elections are held on the basis of the system of proportional representation that the law establishes.

Voting is compulsory and secret. It takes place in the commune save in exceptional cases to be established by law.

- *Belgium 2005, Article 62*

The constitution of the electoral rolls shall be determined by law for the whole kingdom. Elections shall take place according to the system instituted by law. The vote shall be secret and obligatory. Voting shall take place at the commune except as otherwise provided by law.

- *Burundi 1962, Article 45*

In a popular vote, the ballot shall be personal, equal and secret. For citizens it shall be, in addition, obligatory.

A popular vote may only be organized in elections and plebiscites expressly provided for in this Constitution.

- *Chile 2005, Article 15*

Universal, equal, and secret suffrage is established for all Cuban citizens as a right, duty, and function.

This function shall be compulsory, and everyone who fails to vote at an election or referendum, except for an impediment admitted by law, shall be subject to the penalties imposed on him by law and shall be ineligible to hold any magistracy from the date of the infraction.

- *Cuba 1962, Article 97*

Every person registered as a voter whose right to registration has not ceased must, as prescribed by the Parliament and subject to such

exceptions as the Parliament prescribes, vote in every election in the constituencies in respect of which he or she is enrolled.

- *Fiji 1998, Article 56*

Civic duties are the citizen's moral, political, social and economic obligations as a whole to the State and the country. These obligations are:

...

c) To vote in elections without constraint;

- *Haiti 1987, Article 52-1*

The following are obligations of the citizen:

(1) To inscribe himself in the electoral registers or catalogues;

(2) To vote in the popular elections;

(3) To fulfill, except for excuse, defined by law, the duties of public office.

The laws shall regulate these obligations and determine the penalties for their infraction. They shall also determine when women may exercise the suffrage. For the adoption of measures in this respect, a majority of at least three fourths is required. With respect to eligibility women shall be on the same footing as men, except as expressly provided by the Constitution or the laws.

- *Nicaragua 1948, Article 30*

The State guarantees freedom of suffrage. Voting is secret and obligatory. The law will determine the system of elections. Persons who preach or proclaim electoral abstention lose their rights of citizens, without prejudice to their obligations.

- *Paraguay 1940. Article 44*

Every person shall have a duty to exercise his or her right to vote at an election.

The person who fails to vote without notifying the appropriate cause of the inability to attend the election shall lose his or her right to vote as provided by law.

The notification of the cause of the inability to attend the election and the provision of facilities for the attendance thereat shall be in accordance with the provisions of law.

- *Thailand 1997, Article 68*

Every citizen is a member of the sovereignty of the Nation; as such he is a voter and eligible for election in the cases and in accordance with the procedure which will be set forth.

Suffrage shall be exercised in the manner determined by law, but on the following bases:

- 1) Compulsory inscription in the Civil Register;
- 2) Secret and compulsory vote. The law, by an absolute majority of the full membership of each Chamber, shall regulate the fulfillment of this obligation.

...

- *Uruguay 1996, Article 77*

## **5.2. Voting is optional for certain categories of citizens and/or after a certain age**

Popular sovereignty shall be exercised by universal suffrage, and by direct and secret vote, with equal value for all, and, as provided by law, by:

- I - plebiscite;
- II - referendum;
- III - popular initiative.

§ 1°. Voter registration and voting are:

- I - compulsory for persons over eighteen years of age;
- II - optional for:
  - a) the illiterate;
  - b) those over seventy years of age;
  - c) those over sixteen and under eighteen years of age.

- *Brazil 2005, Article 14*

Subject to these conditions, the vote in popular elections is obligatory for men and optional for women. The law shall determine the corresponding penalty for non-compliance with this duty.

The public forces guarantee the sanctity of the electoral process. They do not have the right to vote in universal suffrage. Their representation will be functional.

- *Ecuador 1946, Article 22*

Suffrage is universal and secret, compulsory for voters who can read and write and optional for illiterate voters.

- *Guatemala 1965, Article 19*

Voting is personal, equal, free, secret, and obligatory up to the age of 70. It is optional after that age.

- *Peru 2005, Article 31*

## 6. APPENDIX

This report is based on the following question(s) from the Comparative Constitution Project's "survey instrument."

[COMPVOTE]-Does the constitution make voting mandatory, at least for some elections?

1. Yes
2. No
96. other, please specify in the comments section
97. Unable to Determine

Instructions: This includes explicit references to compulsory voting as well as penalties for non-voting, like forfeiture of privileges or fines. If the constitution specified that citizens have a civic duty to vote or to register as a voter, please code "no." If voting is mandatory for certain categories of people(e.g. men) and optional for other (e.g. women), please code "yes" and make a comment. If voting becomes optional after a certain age, please code "yes" and make a comment.

For additional documentation on the Comparative Constitutions Project, (including the full codebook, the sample, the sources of constitutional texts and translation issues related to those texts, coding procedures, publicly available data, etc.) please visit the project website at [www.comparativeconstitutionsproject.org](http://www.comparativeconstitutionsproject.org).